

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
EDERY HERRERA, *On Behalf Of Himself*
And All Other Persons Similarly Situated,

Plaintiff,

-against-

AVI ATHLETICS LLC,

Defendant.
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24-CV-1814 (VSB)

ORDER

VERNON S. BRODERICK, United States District Judge:

On March 8, 2024, Plaintiff filed this action against Defendant. (Doc. 1.) Plaintiff obtained a summons on March 11, 2024. (Doc. 4.) To date, Plaintiff has not filed an affidavit of service or taken any other action to prosecute this case. Accordingly, it is hereby:

ORDERED that, no later than June 24, 2024, Plaintiff shall submit a letter of no more than three (3) pages, supported by legal authority, demonstrating good cause as to why this case should not be dismissed pursuant to Federal Rule of Civil Procedure 4(m). “Good cause is generally found only in exceptional circumstances where the plaintiff’s failure to serve process in a timely manner was the result of circumstances beyond its control.” *E. Refractories Co. v. Forty Eight Insulations, Inc.*, 187 F.R.D. 503, 505 (S.D.N.Y. 1999) (internal quotation marks omitted). “District courts consider the diligence of plaintiff’s efforts to effect proper service and any prejudice suffered by the defendant as a consequence of the delay.” *Id.* (internal quotation marks omitted). “An attorney’s inadvertence, neglect, mistake or misplaced reliance does not constitute good cause.” *Howard v. Klynveld Peat Marwick Goerdeler*, 977 F.Supp. 654, 658 (S.D.N.Y.1997) (citing *McGregor v. United States*, 933 F.2d 156, 160 (2d Cir.1991), *aff’d*, 173 F.3d 844 (2d Cir.1999)). Plaintiff is warned that failure to submit a letter and to demonstrate

good cause for failure to serve Defendant within ninety days after the complaint was filed will result in dismissal of this action.

SO ORDERED.

Dated: June 16, 2024
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick". The signature is written in a cursive, flowing style. The first name "Vernon" is written with a large, prominent "V" and the last name "Broderick" follows in a similar cursive script.

VERNON S. BRODERICK
United States District Judge